<u>REMARKS</u>

The present application was filed on February 24, 2004, with claims 1-19, all of which remain pending. Claims 1, 16 and 19 are the independent claims.

Claims 1-3, 6 and 9-19 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 2005/0152354 (hereinafter "Abel") in view of U.S. Patent No. 7,164,658 (hereinafter "Shenoy").

Claims 4 and 5 are rejected under 35 U.S.C. §103(a) as being unpatentable over Abel in view of U.S. Patent Publication No. 2003/0128687 (hereinafter "Worfolk").

Claims 7 and 8 are rejected under 35 U.S.C. §103(a) as being unpatentable over Abel in view of U.S. Patent No. 6,553,035 (hereinafter "Schwartz").

Applicants respectfully request reconsideration of the present application in view of the amendments above and the remarks below.

As a preliminary matter, Applicants note that dependent claims 4, 5, 7 and 8 are indicated in the final Office Action as being unpatentable over Abel in view of Worfolk or Schwartz. Applicants note that each of these claims is dependent on independent claim 1, which is rejected over the combination of Abel and Shenoy. Accordingly, these rejections should instead be characterized as over Abel and Shenoy in view of Workolk or Schwartz.

Independent claim 1, as amended, recites limitations directed to splitting the traffic flow <u>at a given node</u> into a plurality of parts; and distributing the parts <u>from the given node</u> to respective ones of the plurality of nodes that are designated as participating in a load balancing process for the traffic flow <u>such that each participating node receives a corresponding one of the parts</u>. Amended claim 1 also recites a limitation wherein each of at least a subset of the participating nodes receiving one of the parts <u>from the given node</u> routes at least a portion of its received part to one or more destination nodes of the plurality of nodes. Amended claim 1 also recites a limitation wherein at least a first one of the participating nodes receiving one of the parts <u>from the given node</u> routes at least a portion of its received part to at least a second one of the participating nodes receiving another one of the parts <u>from the given node</u>. Support for these amendments may be found in the present specification at, for example, page 4, lines 22-26, with reference to step 104 in FIG. 1.

An illustrative embodiment within the claim as amended is described in the present specification at, for example, page 6, line 13, to page 7, line 4. As shown in FIG. 2D, the traffic flow

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is split at node 1 into eight parts. The parts are distributed from node 1 to nodes 1-8 such that each of the eight participating nodes receives a corresponding one of the eight parts. As shown in FIG. 2F, participating node 3 transmits at least a portion of its received part to participating node 2, which previously received another one of the parts of the traffic flow from node 1.

In formulating the rejection of claim 1 as it existed prior to the present amendment, the Examiner concedes in the final Office Action that Abel fails to teach or suggest the previous limitation of claim 1 wherein at least a first one of the participating nodes receiving one of the parts transmits at least a portion of its received part to at least a second one of the participating nodes receiving another one of the parts. Instead, the Examiner contends that this limitation is disclosed by Shenoy at column 5, lines 9-47, which describes components of edge router 120. See, e.g., Shenoy at column 4, lines 53-67, and column 5, lines 48-50.

Applicants respectfully submit that, as shown in FIG. 1 of Shenoy, edge router 120 divides the plurality of datagrams among only switch 130-A or 130-B, neither of which transmits any portion of its received part to the other. Instead, switch 130-A transmits all datagrams received from edge router 120 to switch 140-A and switch 130-B transmits all datagrams received from edge router 120 to switch 140-B. See Shenoy at, for example, column 3, lines 59-65; column 4, lines 11-45; and column 4, lines 63-67.

Accordingly, Shenoy fails to teach or suggest the limitations of claim 1 directed to distributing a plurality of parts from a given node to respective ones of the plurality of nodes that are designated as participating in a load balancing process for the traffic flow such that each participating node receives a corresponding one of the parts from the given node; wherein at least a first one of the participating nodes receiving one of the parts from the given node routes at least a portion of its received part to at least a second one of the participating nodes receiving another one of the parts from the given node.

As noted above, Abel failed to teach the limitations of claim 1 prior to the present amendment. Shenoy fails to supplement this fundamental deficiency of Abel to reach the limitations of amended claim 1. Accordingly, the proposed combination of Abel and Shenoy fails to meet the limitations of amended claim 1.

Furthermore, even if one could combine Abel and Shenoy so as to reach the limitations of amended claim 1, the Examiner has failed to identify a cogent motivation for doing so. Applicants note that both the Supreme Court and the Federal Circuit have held that "rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR Intern. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741, 82 USPQ2d 1385, 1396 (U.S., Apr. 30, 2007), quoting *In re Kahn*, 441 F. 3d 977, 988 (Fed. Cir. 2006).

In the final Office Action at page 4, last paragraph, the Examiner contends that it would have been obvious to combine Abel and Shenoy "because once the packet flow is dynamically distributed over network processor, implementing teaching of virtual circuitry in the each network processor, in order to further transfer divided flow into virtual circuit, which can further communicate with another virtual circuit located in different network processor who has received respective received parts to one another."

To the extent the above statement is understood, it appears to be inapposite to combining Abel with Shenoy so as to reach the limitations of claim 1. For example, claim 1 does not include limitations directed to dynamically distributing a packet flow over a network processor or implementing virtual circuitry in each network processor. Accordingly, Applicants respectfully submit that the above statement fails to provide sufficient motivation for combining Abel with Shenoy so as to reach the limitations of claim 1.

Independent claims 16 and 19, as amended, contain limitations similar to those of amended claim 1 and are thus believed allowable for at least the reasons identified above with regard to independent claim 1 as amended.

Dependent claims 2-15, 17 and 18 are believed allowable for at least the reasons identified above with regard to the independent claims from which they depend. Furthermore, at least one of these claims defines separately patentable subject matter as discussed in Applicants' previous response to the final Office Action.

In view of the foregoing, Applicants believe that claims 1-19 are in condition for allowance, and respectfully request withdrawal of the present rejections.

Respectfully submitted,

Date: April 18, 2008

Joseph B. Ryan
Attorney for Applicant(s)
Reg. No. 37,922
Ryan, Mason & Lewis, LLP
90 Forest Avenue
Locust Valley, NY 11560
(516) 759-7517